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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,439	05/25/2001	Edwin Andre Montie	NL 000307	5977

24737 7590 02/26/2007

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
SHIBRU, HELEN	
ART UNIT	**PAPER NUMBER**
2621	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/866,439	MONTIE ET AL.	
	Examiner	Art Unit	
	HELEN SHIBRU	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-19 have been considered and the last Office Action is withdrawn. However, upon further consideration, the arguments are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miki (US Pat. No. 5,107,481) in view of Koyama (US Pat. No. 6,424,385).

Regarding claim 1, Miki discloses a method of allocating recording space on a recording medium (see optical disk (102) in fig. 1 and col. 4 lines 47-50) for recording an entry of predetermined length, the recording medium having an associated displayed directory listing blocks specifying free space and previously recorded entries, the method comprising the steps (see col. 4 line 51-col. 5 line 9, and fig. 18a, 18b):

receiving a start position on the recording medium (col. 5 lines 9-24 and col. 6 lines 12-31);

determining, with the aid of the displayed directory, consecutive blocks of said listed blocks necessary for recording at least the entry of predetermined length, starting from the start position (see col. 5 lines 11-64 and fig. 2); and

characterized in that the method further comprises the step:

indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory (see col. 5 line 25-col. 7 line 44).

Claim 1 differs from Miki in that the claim further discloses displaying the directory.

In the same field of endeavor Koyama discloses management file comprises a first management file allocated in the directory and a second management file allocated in each subdirectory. Koyama discloses displaying directories (see figs. 35-36 and 38, and col. 37 line 60-col. 38 line 3). Therefore in light of the teaching in Koyama it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miki by displaying the directory in order for the operator to select the demanded file.

Regarding claim 2, Miki discloses the start position is determined by a search algorithm (see col. 5 lines 25-63).

Regarding claim 3, Miki discloses the start position is determined in that start position input is received from a user (see col. 8 lines 7-65).

Regarding claim 4, Miki discloses the displayed directory is displayed in a text-only format (see fig. 1, 18a, 18b, and col. 4 line 60- col. 5 line 9. See also Koyama figs. 20-22, 27, 28-29).

Regarding claim 5, Miki discloses the determined consecutive blocks are displayed so as to be discernable from the rest of the displayed directory (see col. 10 line 50-col. 11 line 12 and fig. 1, fig. 18a and b. See also Koyama figs. 20-22, 27, 28-29, 31-33).

Regarding claim 6, Note to the Applicant: The USPTO considers the applicant's "or" language to be anticipated by any reference containing one of the subsequent corresponding

elements. Miki discloses the determined consecutive blocks are indicated by displaying a frame around the determined consecutive blocks, highlighting, or typography different from the other directory blocks (see fig. 18a and b and col. 4 line 65-col.5 line 5. See also Koyama figs. 20-22, 27, 28-29, 31-33).

Regarding claim 7, Miki discloses the predetermined length corresponds to an amount of recording time (see col. 6 lines 12-31, col. 8 lines 7- 65, and claim 7).

Regarding claim 8, Miki discloses the predetermined length corresponds to an amount of data (see col. 6 line 60-col. 7 line 36 and claim 1 and 7).

Regarding claim 9, Miki discloses the method further comprises the steps:

calculating the difference between an overall length of the determined consecutive blocks and the predetermined length (see fig. 5, fig. 6, fig. 7, fig. 9d-f, fig. 17b, claim 4 and col. 6 line 1-col. 7 line 36); and

displaying the difference (see Koyama fig. 35 and rejection fig. 35).

Regarding claim 10, Miki discloses a module for allocating recording space on a recording medium for recording an entry of predetermined length (see optical disk (102) in fig. 1, col. 4 lines 47--col. 5 line 9, and fig. 18a, 18b), the module comprising:

memory means for storing a directory associated with the recording medium (see col. 3 lines 35-57 and col. 4 line 67-col. 5 line 24);

processing means connected to the memory means for receiving a start position on the recording medium, and for determining the consecutive blocks of the listed blocks necessary for recording at least the entry of predetermined length, starting from the start position (col. 5 lines 9-64 and col. 6 lines 12-31, and fig. 2);

characterized in that the processing means indicates the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory (see col. 5 line 25-col. 7 line 44).

Claim 10 differs from Miki in that the claim further requires means for displaying said directory, said displayed directory listing blocks specifying free space and previously recorded entries.

In the same field of endeavor Koyama discloses means for displaying said directory, said displayed directory listing blocks specifying free space and previously recorded entries (see figs. 33, 35-36 and 38, and col. 37 line 60-col. 38 line 3). Therefore in light of the teaching in Koyama it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miki by displaying the directory in order for the operator to select the demanded file.

Claim 11 is rejected for the same reason as discussed in claim 2 above.

Claim 12 is rejected for the same reason as discussed in claim 3 above.

Claim 13 is rejected for the same reason as discussed in claim 4 above.

Claim 14 is rejected for the same reason as discussed in claim 5 above.

Claim 15 is rejected for the same reason as discussed in claim 6 above.

Claim 16 is rejected for the same reason as discussed in claim 9 above.

Regarding claim 17, Miki discloses a video recorder system including the module as claimed in claim 10 (see claim 2, col. 4 line 51-col. 5 line 26).

Regarding claim 18 Miki discloses a computer program product comprising data and instruction to be loaded into a computer, thereby enabling the computer to carry out the method as claimed in claim 1(see col. 5 lines 25-63).

Regarding claim 19, Miki discloses a data carrier provided with the computer program product as claimed in claim 18 (see col. 4 lines 47-50 and col. 5 lines 35-63).

4. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida (EP 0 932 159) in view of Koyama (US Pat. No. 6,424,385).

Regarding claim 1, Yoshida discloses a method of allocating recording space on a recording medium for recording an entry of predetermined length, the recording medium having an associated displayed directory listing blocks specifying free space and previously recorded entries (see col. 10 paragraph 0061-0062, fig. 3A and 3B and col.11 and 12 and claims 1, 2 and 7), the method comprising the steps:

receiving a start position on the recording medium (see paragraph 0061, 0062, 0065);

determining, with the aid of the displayed directory, consecutive blocks of said listed blocks necessary for recording at least the entry of predetermined length, starting from the start position (see paragraph 0065-0078); and

characterized in that the method further comprises the step:

indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory (see fig. 2 and 4, claims 1 and 6, and paragraph 0070-0072).

Claim 1 differs from Miki in that the claim further discloses displaying the directory.

In the same field of endeavor Koyama discloses management file comprises a first management file allocated in the directory and a second management file allocated in each subdirectory. Koyama discloses displaying directories (see figs. 35-36 and 38, and col. 37 line 60-col. 38 line 3). Therefore in light of the teaching in Koyama it would have been obvious to

one of ordinary skill in the art at the time the invention was made to modify Miki by displaying the directory in order for the operator to select the demanded file.

Regarding claim 10, Yoshida discloses a module for allocating recording space on a recording medium for recording an entry of predetermined length (see col. 10 paragraph 0061-0065, fig. 3A and 3B and col.11 and 12 and claims 1, 2 and 7), the module comprising:

memory means for storing a directory associated with the recording medium (see paragraph 0063-0068);

processing means connected to the memory means for receiving a start position on the recording medium, and for determining the consecutive blocks of the listed blocks necessary for recording at least the entry of predetermined length, starting from the start position (see fig. 2 and 4, claims 1 and 6, and paragraph 0070-0072);

characterized in that the processing means indicates the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory (see fig. 2 and 4, claims 1 and 6, and paragraph 0070-0072).

Claim 10 differs from Miki in that the claim further requires means for displaying said directory, said displayed directory listing blocks specifying free space and previously recorded entries.

In the same field of endeavor Koyama discloses means for displaying said directory, said displayed directory listing blocks specifying free space and previously recorded entries (see figs. 33, 35-36 and 38, and col. 37 line 60-col. 38 line 3). Therefore in light of the teaching in Koyama it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miki by displaying the directory in order for the operator to select the demanded file.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 18-19 are rejected under 35 U.S.C. 101 because the claims are directed to a recording medium storing nonfunctional descriptive material.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical "things" nor statutory processes. See, e.g. Warmerdam, 33 F. 3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. In addition a mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship either as part of the stored data or as part of the computing processes performed by the computer then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer, and therefore are not statutory. See MPEP 2106.IV.B.1.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571) 272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Helen Shibru
February 14, 2007